

FREEPAGE CORPORATION

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October 22, 1998

Secretary

Federal Communications Commission

Washington, DC 20554

DOCKET FILE COPY ORIGINAL

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FCC MAIL ROOM

RE: In the Matter of
Amendment of Part 22 of the Commission's
Rules to Modify Section 22.323 and Permit
the Transmission of Limited Program
Distribution Service material over the
Common Carrier Radiotelephone
channels in the 150 and 450 MHz bands.
(Originally filed October 7, 1997)

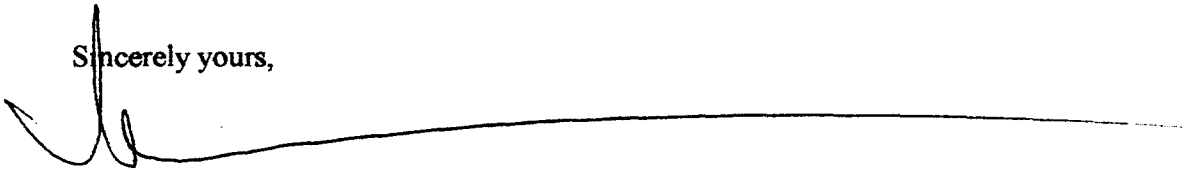
Gentlemen:

Enclosed herewith is an Original and 11 copies of a **Supplemental Petition** filing to further clarify issues presented in a Petition of Rulemaking filed in October 1997. No RM- number or other FCC file number has been assigned to the earlier filing.

We have enclosed additional copies for delivery to each of the FCC Commissioners.

Please address any questions to the undersigned.

Sincerely yours,



Matt Edwards
President

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

ORIGINAL

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In the Matter of
Amendment of Part 22 of the Commission's
Rules to modify Section 22.323 and Permit
the transmission of Limited Program Distribution
Service material over Common Carrier Radio-
telephone channels in the 150 and 450 Mhz bands.
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and
Supplemental Petition for Authorization to Provide
LPDS-like services

and
Request for Expedited Processing in the defining
of LPDS service, and creation and adoption of
regulations therefor,

or, in the alternative
Waiver of Section 22.323, to permit stations
owned, or to be acquired by by FreePage
Corporation to carry LPDS-like material over their facilities

SUPPLEMENTAL PETITION

On October 7, 1997, FreePage Corporation, licensee of DPLMRS stations KGC599 and KNLR969, petitioned the Commission to permit it to carry certain types of materials, including, but not limited to, "readings for the blind" over its facilities. That petition (see Exhibit 1) has languished at the Commission, although considerable support has been received by the Commission from elected officials. The petition is supported by the **National Association of Radio Reading Services**, which provides such program material to its local chapters.

FreePage now seeks immediate approval, either in the form of a waiver, clarification of Section 22.323, or other means acceptable to the Commission, to begin immediate provision of Radio Reading Services in New York City on 152.03 Mhz; in Harrisburg, PA on 152.03 and 152.21 Mhz; and in Salisbury, MD on 152.03 Mhz, over its currently licensed facilities. An assignment application for transfer of KEA763 in New York City to FreePage was filed on June 13th; should such approval be forthcoming, and the transfer consummated, FreePage requests that those facilities also be authorized. Further, the President of FreePage, Matt Edwards, licensee of KLV913 (BonAir, VA) and KNLV-914(Norfolk, VA) hereby requests that those facilities owned by him be similarly authorized.

FreePage also petitions the Commission to explore ways to permit all licensees of similar facilities to also provide LPDS services, for hire, on a co-primary basis over their DPLMRS 152 and 454 MHz two-way channels, by clarifying or expanding the scope of Section 22.323 of the Commissions Regulations, or the creation of new enabling regulations.

The Commission has the option of treating this request in one of several ways, either on a case-by-case basis, or by providing blanket authority to all DPLMRS licensees. Of course, FreePage will accept a waiver to permit it to offer the LPDS service on its facilities, but urges the Commission to act on the entire concept of LPDS.

DISCUSSION

The growth of Cellular and PCS services has, to a great extent, made obsolete the Mobile Telephone services in Part 22 of the Rules, but not entirely. Thousands of mobile users still rely on the so-called MTS and IMTS services provided in the 152 and 454 Mhz bands by carriers licensed under part 22. Additionally, these channels (See Exhibit 2) are used in the BETRS service to provide rural telephony.

One option given to the carriers was the provision of one-way (Paging) services on a co-primary basis with the Mobile two-way services on the channels. In some other instances, the Commission granted the use of those facilities as "Control stations" for providing wireless links to remote Paging sites. In yet other cases, carriers converted their interconnected Mobile channels to "community repeaters" to provide dispatch type services.

THE NEED

In all of the Commission's offerings, one area which has been largely neglected, is providing the ability to deliver what can only be described as "utility narrowcasts" of aural and data material to mobile users. FreePage has learned that FM broadcasters are constantly approached by potential providers of data or aural programming seeking SCA channels for hire. In most cases, no such SCA channels are available, they already being under long-term lease to other providers.

Until now, "narrowcasters", including among them the local chapters of the **Association of Radio Reading Services**, have been able to negotiate with FM broadcasters to utilize the SCA (Sub carrier) channels to transmit their materials. The demand for such distribution is growing, but the number of available SCA channels is not, as the maximum number is two per FM station.

A limited example of other current SCA users includes **Seiko Communications'** watch pagers and data service, **Cue Paging's** nationwide service, **Quotron's** data service, the **BRC Company** (which provides programming for the immigrant Indian community), **Sinocast** (which provides Chinese language programming), the **Russian-American Broadcasting Company** (providing Russian and other foreign language programs), several companies providing programming in the Korean language, and background music companies, to name but a few. As the number of potential users increases, they are forced into a bidding war for SCA channels, driving out those entities with smaller number of users (and/or revenues). As a result, users of these types of services are becoming disenfranchised.

The National Association of Radio Reading Services reports that in recent months, its local Chapters in Charlotte, Buffalo, Lancaster and Allentown have been notified that the SCA channels being utilized by them for "readings for the blind" will either become unavailable, or be cost-prohibitive. This is because of the shortage of SCA channels, and the growing number of program providers seeking over-the-air media.

WHY LPDS CAN PROVIDE A SUPERIOR SERVICE

A further problem with SCA usage is that the service is geographically limited to (less than) the coverage pattern of the host FM station. If "fill-in" coverage is needed, a second station or translator must be found to provide it, which is obviously spectrally inefficient. In fact, Seiko uses up to three FM stations with overlapping coverage areas to insure reliable delivery of its data and paging signals, reducing the availability of SCA channels for others. Other alternatives, such as SAP (for aural material) or the VBI (vertical blanking interval -- for data) on TV channels are even more severely limited in coverage, and may not provide the mobility that LPDS permits to its users.

On the other hand, the stations regulated under Part 22, are interference-protected with defined engineering parameters. The further ability to provide customized coverage through the use of synchronized transmitters is permitted under FCC rules, and through the use of readily available technology. Following the FCC's "paging auction" in which these channels will be included (except for incumbent licensees), where licensing would be on a large geographic areas, it would be possible to economically construct a LPDS system with greater reliable coverage than any single broadcast station. Of course, there's the economic impact of the value of the channels at auction if LPDS were to be adopted, to be considered as well.

This customized coverage could become a significant issue, as widely dispersed ethnic neighborhoods could be served using LPDS efficiently, reducing the cost to the program provider, and ultimately to the end user. Of course, we also anticipate that municipalities may consider broadcasting official meetings to the home-bound, or schools broadcast classroom lessons to students ill at home. Once created, further uses can be found.

The ability of carriers to provide a service to multiple recipients simultaneously, when compared to the single-user-per-channel scenario of the existing use (MTS or IMTS mobile service) provides powerful proof that LPDS provides a more spectrum efficient delivery.

A PRECEDENT TO THE CURRENT LPDS PROPOSAL

A number of precedents exist to the use of Common Carrier channels in this manner. For instance, the C-Band satellite dish industry has become a broadcast service for hire using Common Carrier frequencies in a manner not originally envisioned by the Commission. Today, most satellite channels are scrambled, and viewers must pay a fee to have a descrambled signal. Yet, the true purpose of the C-Band allocation was to deliver signals on a common-carrier basis to cable systems and broadcasters. The Commission has permitted this practice to flourish since it served a need from an otherwise disenfranchised community. We maintain that permitting LPDS in the manner described will also serve an unmet need for communications from a large, and growing, immigrant community, the visually handicapped, and others.

SERVING A SMALL BUT SIGNIFICANT AUDIENCE

We believe that LPDS, if approved, can provide a comparable benefit to Americans. LPDS as proposed in this Petition, could provide program or data services to very small groups of "niche" audiences who otherwise could not receive programming in their language, or information not otherwise economically transmitted. These audiences could be Americans who do not speak English or Spanish (which are provided for extensively by broadcasters), or who are disabled or infirm. The English language could be taught, or lectures on the workings of Democracy and our

government. In fact, the types of material that used to be carried on "Public" radio and TV stations prior to their redirection into entertainment and mainstream programming.

OTHER ISSUES

We mentioned in our 1997 petition that there are tens of millions of "scanners" in use in the US. Because of volume sales, these are quite inexpensive and immediately usable to receive aural transmissions. Later, as the LPDS service matures, we foresee the need for spectrum "refarming" and the possible eventual need for "scrambled" transmissions. But not now. The FreePage transmissions, which will be for one year, with the ARRS reimbursing only out-of-pocket expenses, will prove whether the project is feasible, on both a business and technical basis. The transmissions will be "in the clear" (analog) form, capable of reception by any scanner that covers the frequency band we utilize. This will reduce the cost of the trial program we propose.

We further envision that enactment of our LPDS proposal would create a form of "pay radio" wherein the end-user pays a fee to receive the material, or where a subsidy is provided to the program producer. The radio common carrier would only receive a fee for transmission services rendered, on a negotiated basis. In principle, this is no different than the fees paid to RCCs for carrying paging messages or mobile telephone calls. If one argues that the paging message is addressed to a specific receiver, we counter that "group calling" of many pagers is a common feature, but even more importantly, many paging companies broadcast to all their alpha pagers the latest news stories, stock quotes, weather, etc. If this is not a precedent of broadcasting over paging channels, what is?

CONCLUSION

FreePage's 1997 Petition proposed the use of Radio Common Carrier channels for carriage of highly specialized, very limited, data and aural programming to what can only be described as otherwise unserved "niche" audiences. The proposed channels are currently lightly used for paging and mobile radio services now, and FreePage proposes that most of these users could be displaced to other services. FreePage's proposal also specifically excluded the carriers from being able to produce such program material; this position has not changed. We do not want to be "broadcasters", and permitting us to originate material would take us out of the status of Common Carrier, nor do we think it's in the best interest of the public.

FreePage now again proposes a one-year trial of providing its full-time channel capacity to a non-profit group which provides reading services to the visually handicapped, on a no-profit basis. During this time, the feasibility of the concept could be tested. In the interim, we urge the Commission to explore further the LPDS proposal.

In the alternate, the Commission could recognize the merit of FreePage's petition, and alter Section 22.323 of the Rules, and create a co-primary LPDS service on the MTS/IMTS channels, and define the parameters of the proposed service. FreePage believes it has met the threshold for providing sufficient supporting data to justify such enabling action on the part of the Commission.

For these, and other good reasons, FreePage requests that the Commission grant its requests, in whole or in part.

Respectfully submitted

FREEPAGE CORPORATION

by: 

October 21, 1998

Matt Edwards

President

PO Box 5098

Montauk, NY 11954

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Amendment of Part 22 of the Commission's
Rules to modify Section 22.323 and Permit
the transmission of Limited Program Distribution
Service material over Common Carrier Radio-
telephone channels in the 150 and 450 MHz bands.

PEITTON

FreePage Corporation, licensee of two-way Radiotelephone stations KNLB969 and KGCS99, hereby petitions the Commission to permit it, and other Common Carrier licensee similarly situated, to use their 150 and 450 MHz CARRS stations to "disseminate" certain types of aural programming to limited audiences. Such programming would include readings of written material to the visually impaired, children's programs, foreign language programming to small target audiences, broadcast of governmental hearings, town meetings and the like. The presence of tens of millions of scanners capable of receiving such programming would create a ready-made audience for such presentations. Such a service might be called "Limited Program Distribution Service" (LPDS). We propose the carriers could not produce the program content.

FreePage intends to file for an experimental and/or developmental license authority to test the feasibility of such an offering during the next few weeks. The test would be of transmission of "readings for the blind".

I. INTRODUCTION

1. The Commission has previously limited aural and visual broadcasting to stations licensed under Part 73 of the Commission's rules. Other "niche" narrowcasting services are offered under FM-SCA and TV-Vertical Blanking Signal regulatory umbrellas. Recent changes in the marketplace have seriously reduced the number of available transmission means available for such "narrowcasting". Indeed, a recent report indicates that the average monthly lease payment for use of a single SCA channel in the top-10 markets is now over \$ 6000 and rising, as data, paging, and other services seek spectrum for their offerings.

II. BACKGROUND

2. As their customer bases have eroded from cellular and PCS competition, licensees of Common Carrier mobiletelephone stations in the 152 and 454 MHz bands have sought ways to continue serving the public. In recent years, such stations have been converted to all-one-way paging channels, community reporters, and to "Dispatch" operation (22.577), the Commission's regulations have reflected this trend. There are 18 channel pairs in the 150 MHz range, and 26 channel pairs in the 450 MHz band, spaced either 25 or 30 kHz. Specific frequencies are enumerated in 22.561. Many large carriers have shut down their operations and turned in their licenses to the FCC for cancellation, but others continue to provide service to thousands of subscribers, particularly in areas of difficult terrain. These channels are also coincidental with BETRS service, but we foresee no conflict from enactment of our proposed BETRS, by its very nature, is not likely to be deployed in urbanized areas, where we believe LPDS would most useful.

3. Broadcast stations have increased in value (and cost) at an almost exponential rate as restrictions on multiple ownership have been relaxed. The resulting mega-mergers have reduced costs of operation while simultaneously increasing profitability. Recent prices for stations in major markets have approached a half-billion dollars. As a result, potential "narrowcasters" have been squeezed out of both ownership of facilities, and the use of subchannels for distribution of their programming.

III. DISCUSSION

4. The decline in traditional mobile telephone service subscribers, and the increase in the cost of entry of potential AM, FM, and SCA broadcasters, suggests that a change in the wording of Section 22.323, might create new service opportunities for Common Carriers and offer relief for a disenfranchised narrowcasting audience.

5. The VHF and UHF channels utilized by Radio Common Carriers are of an "exclusive" nature with no co-channel (shared) operation permitted. Coverage and interference contours are carefully regulated to provide reasonable coverage for paging and mobiletelephone service which, if inadequate to serve a shifting population, can be expanded or corrected through the use of synchronized "fill-in" transmitters. In some respects, the coverage of such stations can exceed the coverage of some AM and FM stations. Following the "Paging Auction" (scheduled for 1998), which would result in licensing by large geographic areas, it would be possible for a LPDS station to economically serve a larger audience, widely dispersed, at a reasonable cost.

6. A service similar to LPDS is already offered by the National Weather Service, which operates hundreds of stations in the 162 MHz band. These stations have proven that adequate coverage is easily obtainable, although they do not utilize "high power" by broadcast standards. They successfully transmit legible audio which is received by millions of weather receivers, scanners, and marine radios. Although operated by the Federal Government, these are indeed "narrowcasting" stations and would otherwise fit under the proposed LPDS umbrella, were it not for their Federal ownership.

7. To maintain the Common Carrier status of licensees in the Part 22 service, we propose that licensees or their affiliates be prohibited from producing program content of any kind. An exception would have to be made for non-profit entities, however, to permit them to be both licensees and program providers. We believe that such an exception should permit not-for-profit entities to become licensees prior to any auction. Perhaps a non-profit "filling window" for vacant channels could be arranged.

8. Nonetheless, we expect that unless the Commission strongly words the prohibition against the production of programs by the licensees, and other common ownership prohibitions, including ownership of LPDS facilities by Part 73 licensees or their affiliates, that there will be a "land rush" for these channels by traditional broadcasters.

9. We believe however, that permitting LPDS use of these channels will greatly increase the Government's revenues from the forthcoming auctions thereof.

10. Section 22.323, which authorizes "incidental" use of the instant channels, is currently very broad in its scope. It appears to permit LPDS-like services without further Commission approval. We feel however, that it is important for a rule change to be effectuated to make permanent such authority.

11. Section 22.567(h) permits stations to utilize the "mobile return channel" for base station communications, including one-way paging, or as control stations in a "repeater" mode. Since these uses are already permitted, we propose that licensees be authorized to provide either separate LPDS services on the Mobile channel, or in the alternate, use the mobile channel as part of a "Studio to Transmitter Link" (STL), negating the need for wireline service or co-location of facilities.

13. We recognize the need for Station Identification requirements, but suggest that current regulations embodied in Section 22.313 (b) and (c), are adequate in this regard. We would greatly prefer, however, that LPDS facilities be included in 22.313 (a).

IV CONCLUSION

14. It is obvious that Common Carrier licensees can provide a needed service by carriage of LPDS material, satisfying a "pent up demand" for program distribution channels and serving the public by providing a greater diversity of programming. These goals are consistent with the mandate of the Telecommunications Act of 1996 which seeks open competition in all communications services.

15. For these, and other good reasons, we request that the Commission act upon this Petition in the manner it deems appropriate.

Respectfully submitted,

FREEPAGE CORPORATION

By _____
President

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Montauk, NY 11954
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EXHIBIT 2

DPLMRS Channels under Part 22 (proposed for LPDS carriage)

152.03 MHz

152.06

152.09

152.12

152.15

152.18

152.21

152.51

152.54

152.57

152.60

152.63

152.66

152.69

152.72

152.75

152.78

152.81

454.025

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454.075

454.100

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